IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

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THE HONOURABLE SRI JUSTICE B.SUDERSHAN REDDY

AND

THE HONOURABLE SRI JUSTICE C.V.RAMULU

-

WRIT APPEAL NO.675 OF 2005

AND

WRIT PETITION NO : 16760 of 2004

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WRIT APPEAL NO.675 OF 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22/09/2004 in WPMP No.21890 of 2004 in WP No: 16760 of 2004 on the file of the High Court.)

Between:

1 The Deputy Director of Fisheries, Nalgonda.
2 The Commissioner of Fisheries, Andhra Pradesh, Hyderabad./
3 The District Collector, Nalgonda.
4 The Assistant Director of Fisheries, Nalgonda.

..... APPELLANTS

AND

1. Fishermen Co-operative Society, Yacharam, Anumula Mandal,

Nalgonda District.

.....RESPONDENT

Counsel for the Appellants: GP FOR FISHERIES

Counsel for the Respondent: MS.M.VIDYAVATHI

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WRIT PETITION NO : 16760 of 2004

Between:

Fishermen Cooperative Society, Yacharam Village, Anumula Mandal, Nalgonda District, rep., by its President, Gudugundla Venkaiah, s/o Chandraiah, aged about 40 yrs.

..... PETITIONER

AND

1 The District Collector, Nalgonda District, Nalgonda.
2 The Commissioner of Fisheries, Mastya Bhavan, Santhinagar, Hyderabad.
3 The Dy.Director of Fisheries, Nalgonda District, Nalgonda.
4 The Asst.Director of Fisheries, Nalgonda District, Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ, order or direction more particularly one in the nature of writ of mandamus, declaring the Notice of the 3rd respondent i.e., Dy.Director of Fisheries, Nalgonda vide Letter No.388/C/2004, dt.10-9-2004 as bad, arbitrary, without jurisdiction and contrary to the guidelines issued by the respondent apart from the GO.Ms.No.776, Panchayat Raj Department, Dt.31-12-1990 and set aside the same

Counsel for the Petitioner: MS.M.VIDYAVATHI

Counsel for the Respondents: GP FOR FISHERIES

The Court at the stage of admission made the following

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ORAL ORDER: (Per Sri BRSR.J)

Though this writ appeal is directed against the interlocutory order passed by the learned single Judge whereunder and whereby the show cause notice dated 10.9.2004 issued by the 3rd respondent herein has been kept under suspension as an interim measure even though a detailed counter affidavit has been filed by the respondents explaining as to how and under what circumstances the show cause notice was issued by the 3rd respondent, we have taken up the writ appeal as well as the writ petition for hearing at the request of the learned counsel for the petitioner and the learned Government Pleader.

The writ petition is directed against the show cause notice dated 10.9.2004 issued by the 3rd respondent requiring the respondent-writ petitioner society to submit its explanation within seven days from the date of receipt of the notice as to why the lease granted in favour of the society in respect of Pedda Cheruvu Yacharam should not be cancelled. We do not propose to express any opinion about the contents of the show cause notice and as to whether it suffers from any infirmities. Learned counsel for the respondent writ petitioner however submitted that such a show cause notice has been issued by the respondents in order to overcome the earlier orders issued by this Court. The fact remains that the writ petition is directed against the show cause notice and we are not satisfied with the reasons stated in the writ petition as to why the petitioners have chosen to challenge the very show cause notice instead of submitting the explanation to the notice.

In the circumstances, the writ petition is disposed of directing the 3rd respondent – Deputy Director of Fisheries, Nalgonda District to consider the reply/explanation to be submitted by the respondent-writ petitioner within one week from today and pass an appropriate reasoned order and communicate the same to the respondent-writ petitioner. The 3rd respondent shall pass the order within one week from the date of

the respondent-writ petitioner submitting its explanation and shall not refuse to receive the same on the ground that the time stipulated in the show cause notice stood expired.

It is needless to direct that the 3rd respondent - Deputy Director shall pass appropriate orders in accordance with law uninfluenced by any of the observations made in this order since we have not expressed any opinion on the merits of the case.

The writ appeal is accordingly allowed without any orders as to costs. With the directions as above, the writ petition shall stand disposed of.

(B.SUDERSHAN REDDY,J)

dated 08..04..2005

(C.V.RAMULU,J)

Note: Furnish CC by Monday

(B/o)

msv

To

1 The Deputy Director of Fisheries, Nalgonda.
2 The Commissioner of Fisheries, Andhra Pradesh, Hyderabad./
3 The District Collector, Nalgonda.
4 The Assistant Director of Fisheries, Nalgonda.

5 2 CCs to G.P. for Fisheries, High Court of A.P. Hyderabad (OUT)

6 2 CD copies.